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COMMISSION ON HUMAN RIGHTS

Inter-sessional open-ended working group
on a draft optional protocol to the
Convention on the Rights of the
Child on the sale of children, child
prostitution and child pornography
as well as the basic measures needed
for their prevention and eradication
First session
14-25 November 1994

COMMENTS ON THE GUIDELINES FOR A POSSIBLE DRAFT OPTIONAL PROTOCOL

Report of the Secretary-General

Addendum

The present document contains comments submitted by the Government of New Zealand.

GE.94-14720 (E)

New Zealand

[Original: English]
[11 November 1994]

1. The Government of New Zealand attaches importance to the issue of a possible draft optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and is pleased to take the opportunity to provide the following views on appropriate content for such a protocol. New Zealand would note at this stage the importance of sufficient flexibility in a draft instrument to take into account the differences in practice and procedure among eventual States parties. The Government of New Zealand would also like to submit the comments which follow, in relation to specific issues.

2. The Government of New Zealand would support the inclusion in the proposed instrument of a provision requiring States to exercise jurisdiction over their nationals and residents engaging in sexual acts with children outside their territory. It believes such a measure to be an important contribution to combatting child prostitution and related exploitation outside the State concerned. Clearly, all States must also be expected to find the means to enforce thoroughly legislative sanctions against those engaging in such acts within their territories.

3. The Government of New Zealand does not, however, consider that universal jurisdiction should be established over crimes of this nature. It considers that those crimes over which such universal jurisdiction is currently recognized, such as hostage-taking and crimes against internationally protected persons, are regarded as crimes against humanity and are of such a level of gravity and international interest that the establishment of universal jurisdiction is warranted. New Zealand considers that the establishment of jurisdiction over their nationals by States parties to any such protocol would be appropriate to the character of the offences and consistent with the approach taken in respect of similar international instruments in the past.

4. New Zealand is currently in the process of legislating to make promoting and organizing child sex tours an offence when committed within its own territory, and would support a provision in a draft protocol requiring States to pass this type of legislation. New Zealand notes that it would not see as appropriate a requirement that States take jurisdiction for an offence of promoting and organizing child sex tours when the offence is committed overseas rather than within their own territory.

5. Were the question of international cooperation in relation to evidence and investigation to be addressed, New Zealand would wish to see an approach which encouraged States in their efforts. Detailed requirements on the nature of appropriate cooperation between States would not necessarily be the best type of provision, however.

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